

09
Indrajeet Dey

Advocate
High Court at Calcutta
Ch 43/2B Suhasini Ganguly Sarani
Kolkata 700025
Ph 9804377236

04/07/19

To,

The Learned Government Pleader

Having His office at the Hon'ble High Court at Calcutta

Sir,

In Re- WP 17163(W) of 2019


Sanghamitra Saxena

Vs

State of West Bengal

Please find a copy of the writ petition along with all its Annexures. The Said matter is due to appear in the list of the Hon'ble Justice Debangsu Basak at Court No. 8 on September 09, 2019 or thereafter as the business of the Court may permit.

Thanking you


Indrajeet Dey

District- Howrah

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P No. 17163 (W) of 2019

Subject matter relating to Residuary falling
under Group IX of the Classification List.

AND

IN THE MATTER OF:

An Application under Article 226 of the
Constitution of India

No Pet

AND

IN THE MATTER OF:

1

Sanghamitra SaxenaPetitioner

Versus

State of West Bengal and Ors...Respondents

Indrajeet Dey

Advocate on Record :

INDRAJEET DEY

ADVOCATE

HIGH COURT AT CALCUTTA

14C/1 KAPALITOLA LANE, KOLKATA 700012

Ch-43/2B, Suhasini Ganguly Sarani,

Kolkata 700025

Ph- 9804377236

District- Howrah

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P No. 17169 (W) of 2019

AND

IN THE MATTER OF:

Sanghamita Saxena

.....Petitioner

Versus

State of West Bengal and Ors

.....Respondents

INDEX

Sl. No.	Document	Annexure	Page Nos.
1.	List of Dates		
2.	Points of law		
3.	Application		
4.	Affidavit		1-13
5.	Letter of complaint	P1	14

District- Howrah

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P No. 17163 (W) of 2019

AND

IN THE MATTER OF:

Sanghamitra Saxena

.....Petitioner

Versus

State of West Bengal and Ors

.....Respondents

List Of Dates

Sl No.	Dates.	Particulars.
1 .	August 03, 2019	The FIR was lodged;

District- Howrah

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P No. 17163 (W) of 2019

AND

IN THE MATTER OF:

Sanghamitra Saxena

.....Petitioner

Versus

State of West Bengal and ors

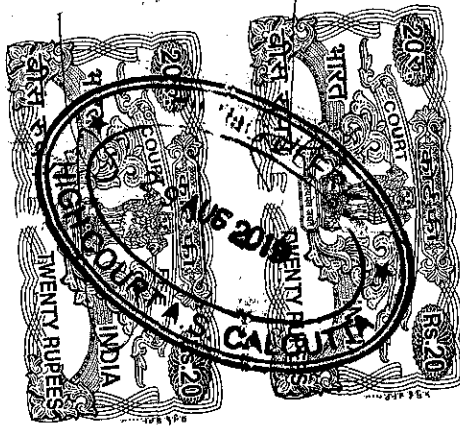
.....Respondents

POINTS OF LAW

- I. WHETHER the authority concerned acted in a manner
which was contrary to the procedure established by law;

- II. WHETHER the authority concerned in denying to discharge their duty and have acted in a manner which abrogated the most cardinal principle of Natural Justice;
- III. WHETHER the acts and deeds of the authority concerned indicate a biased and partisan approach of the respondents in dealing with the case of the petitioner;
- IV. WHETHER your petitioner is greatly prejudiced by the inaction on the part of the police and the state.
- V. WHETHER the inaction has caused / is causing an irreparable loss and loss of reputation of the petitioner.

DISTRICT: Howrah



Thyagar
Rudra Chatterjee
H.C.

In The High Court at Calcutta
Constitutional Writ Jurisdiction

Appellate Side

WP. No. 17163 (W) of 2019

In the Matter of:

An application under Article 226 of the
Constitution of India;

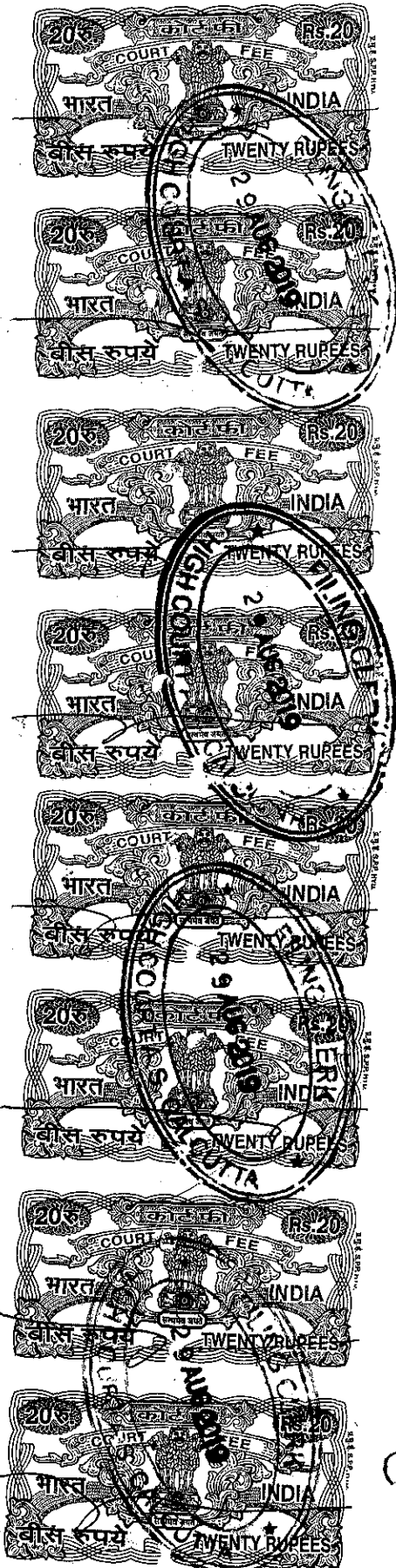
-And-

In the Matter of:

Sanghamitra Saxena wife of Vivek
Saxena residing at 52, Ramlochan Shire
Street, Bally, Belur, Howrah PIN 711202
.....Petitioner

-Vs-

37852



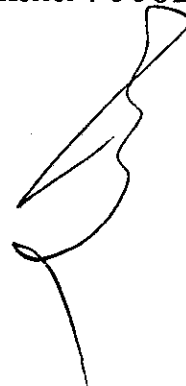
1. The State Of West Bengal service through Chief Secretary, to the Government of West Bengal, having his office at Nabanna, 325 Sarat Chatterjee Road, Shibpur, Howrah – 711 102;

2. The Principal Secretary, Home, having his office at Nabanna, 325 Sarat Chatterjee Road, Shibpur, Howrah – 711 102;

3. The DG & IGP, Police, Govt of West Bengal, Bhawani Bhawan, Alipore, Kolkata 700027;

4. The IGP, South Bengal, Bhawani Bhawan, Alipore, Kolkata 700027;

5. The DIG, Presidency Range, Bhawani Bhawan, Alipore, Kolkata 700027;

A handwritten signature in black ink, consisting of a series of loops and a long vertical stroke at the bottom.

6. The Superintend of Police, Howrah
Rural District, NH- 6, Post Office Biki
Hakola, PIN 711322

7. The Additional Superintend of Police,
Howrah Rural District, NH- 6, Post Office
Biki Hakola, PIN 711322

8. The Deputy Superintend of Police,
(HQ) Howrah Rural District, NH- 6, Post
Office Biki Hakola, PIN 711322

9. The Officer in Charge, Belur, Police
Station, 9 Garinder Road, Liluah,
Howrah, PIN- 711202

.....Respondents

To

The Hon'ble, Thottathil B. Radhakrishnan, Chief Justice And His
Companion Justices of the said Hon'ble Court

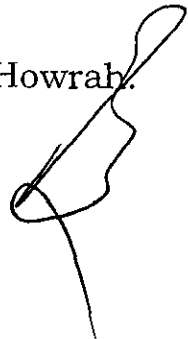
A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

The humble petition on behalf of the

Petitioner above named

Most Respectfully Sheweth:

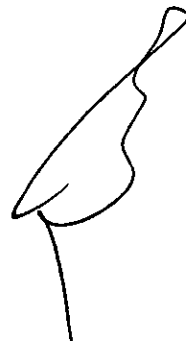
1. That your petitioner is a citizen of India and is a permanent resident of the address given in the cause title above, where she resides with his other family members.
2. That your petitioner had written a letter to the Officer in Charge, Belur Police Station on August 03, 2019, wherein she stated that on August 02, 2019 about 10AM, in front of her house, she went to protest the illegal cutting of a neem tree, pursuant to which she was assaulted and molested by the miscreants namely Banka, Bhola, Krishanu, Lalu etc. As a result of the assault she was hurt and injured. A Copy of the letter of compliant and the Track reports is attached herewith marked with the letters "Annexure P/1"
3. Subsequently a counter case being Belur Police Station Case No. 147 of 2019 was initiated against the petitioner by the miscreants. Your petitioner had obtained bail from the said concerned case from the Learned Chief Judicial Magistrate's Court at Howrah.



4. That your petitioner, his wife, as well as a neighbor had sustained injury and was bleeding. However she could not visit the doctor owing to the fact that she was in trauma and she was also scared by the initiation of the counter case. However, the blood stained wearing apparels are still with your petitioner.
5. That it is pertinent to mention that owing to the said incidence your petitioner's clothes were torn owing to the scuffle. Such clothes are kept safely by the petitioner as he intends to hand them over to the police.
6. That the Respondent No. 9 being the investigating agency already is well aware of the facts and circumstances herein. However he has failed to arrange for the statement to be recorded under Section 164 of the Code of Criminal Procedure, 1973 and wearing apparels.
7. That it is a trite rule evidence that the fact that injury is received by a person is an inherent proof that an offence has been committed and there is no reason as to why an injured person would wish the real perpetrators to get away.

A handwritten signature in black ink, consisting of a stylized, cursive script that begins with a large, sweeping 'L' shape and ends with a long, trailing flourish.

8. That the victim lady is extremely scared of dire consequences if they were depose in front of the court. Moreover, the accused person reside just near to the house of the complainant and the Victims. In such a situation these innocent sufferers are afraid to enter their house owing to the fear that they may be silenced forever by the accused persons.
9. That the petitioner submits that the acts, inactions and deeds of the respondents concerned have grossly violated the petitioner's rights guaranteed under Articles 14 and 21 of the Constitution of India.
10. That the petitioner submits that the respondents has adopted a biased and partisan approach in dealing with the case of the petitioner and as such have thrust great hardship upon him and such acts and deeds of the concerned respondents are violative of the rules of justice, equity and fair play.
11. That the petitioner submits that the acts of the respondents concerned are also violative of the principles of Natural Justice and in particular, the Third principle, which provides that the act of an



authority, whether judicial, quasi-judicial or administrative, must be just, fair, reasonable and bona fide.

12. Upon being extremely dissatisfied and aggrieved by the inaction of the respondents in having a very casual approach to the law and order situation and the non consideration of the letter of complaint, as well as the fact that your petitioner and the victims of the offence are living in fear and anxiety, your petitioner begs to move this application under Article 226 of the Constitution of India on following amongst other:-

Grounds

- I. For that the action of the authority concerned is perverse, per se bad and unconstitutional;
- II. For that the authority concerned acted in a manner which was contrary to the procedure established by law;
- III. For that the authority concerned in denying to discharge their duty by considering and have acted in a manner which abrogated the most cardinal principle of Natural Justice;



- IV. For that the letter of complaint clearly reflects a cognizable offence and an extremely daring attitude of the miscreants but it is very shocking to find that there was no action taken and neither was any FIR lodged after that.
- V. For that the state respondent has failed to investigate the case in a quick and expeditious manner and it further failed to execute it's duty when the complainant was threatened.;
- VI. For that acts and deeds of the authority concerned indicate a biased and partisan approach of the respondents in dealing with the case of the petitioner;
- VII. For that the State Respondents have acted in a manner contrary to the Code of Criminal Procedure, Police Regulations Bengal and the Police Act and the Rules and Regulations set there under;
- VIII. For that the Investigating Agency has caused the investigation in a casual and careless manner;

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping tail stroke.

IX. For that the petitioner submits that the acts, inactions and deeds of the respondents concerned have grossly violated the petitioner's rights guaranteed under Articles 14 and 21 of the Constitution of India.

X. For that the Respondent No.9 being the investigating agency already is well aware of the facts and circumstances herein. However he has failed to arrange for the statement to be recorded under Section 164 of the Code of Criminal Procedure, 1973 and seize the wearing apparels.

13. That the petitioner states that in the facts and circumstances stated hereinabove, he has made out a strong prima - facie case which warrants judicial review.

14. That the balance of convenience and/or inconvenience rests in favour of the petitioner for grant of reliefs as prayed for hereinafter and such reliefs, if granted, would provide adequate remedy to the petitioner.

15. That the petitioner shall suffer irreparable loss, injury and prejudice if orders as prayed for hereinafter are not granted.

A handwritten signature in black ink, consisting of a series of loops and a final downward stroke.

16. That the petitioner has not approached any other Court or any other forum seeking redressal of the self-same cause of action.

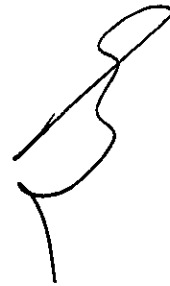
17. This application is bonafide and made in the interest of justice.

And your petitioner as in duty bound shall ever pray.

In the facts and circumstances stated hereinabove, The Lordships may be graciously pleased to pass the following orders and/or directions –

a) A writ of and/or in the nature of Mandamus do issue directing the respondents being Respondent No. 9 directing him to seize the wearing apparels;

b) A writ of and/or in the nature of Mandamus do issue directing the respondents being Respondent No. 9 directing him to cause the recording of

A handwritten signature in black ink, consisting of a stylized, cursive letter 'B' or 'P' with a long vertical stroke extending downwards.

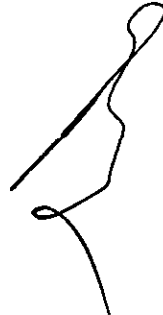
the statement of the state of the petitioner under Section 164 of the Code of Criminal Procedure, 1973;

c) A writ in the nature of mandamus directing the State Respondents to ensure that your petitioner or any of the witnesses are subjected to any untoward incidence;

d) A writ of Certiorari do issue directing the respondent authorities to transmit all records pertaining to the cases made out against the private respondents so that conscionable justice may be rendered;

e) Rule NISI in terms of prayers (a) and hereinabove;

f) Costs and incidentals thereto;

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping stroke that extends downwards and to the right.

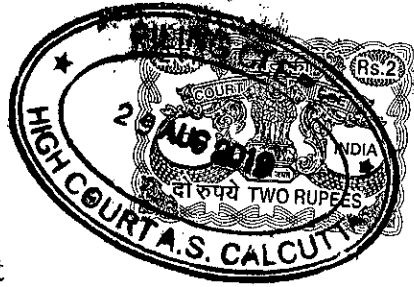
g) Any other or further order or
orders, direction or directions as this
Hon'ble Court may deem fit and proper.

And for this act of kindness, the petitioner as in duty bound shall ever
pray.

Sangh. L. Sinner.

29.08.19





Affidavit

I, Sanghamitra Saxena wife of Vivek Saxena, aged about 38, by occupation student, by faith Hindu, residing at 52, Ramlochan Shire Street, Bally, Belur, Howrah PIN 711202, aged about 37, by occupation student, do hereby solemnly affirm and declare as follows:

1. That I am the father in law of the petitioner and I am well acquainted with the facts of this case.
2. That the statements made in paragraph nos 2-3 of the petition are matters of record, the statements made in Paragraph nos 1, 4-8 are true to my knowledge, which I came to know from the petitioners and the rest are my humble submissions.

Sanghamitra Saxena
Sanghamitra Saxena

Prepared in my office.

The deponent is known to

[Signature]
 Advocate.

me.

Keshab Chandra Mandal
 Clerk to: 12. SOAM,
Goutam Kumar Hazra

Advocate.

Solemnly affirmed before me

on

this 29th day of August, 2019.

All necessary on
19.08
[Signature]
Adv.

[Signature] 29.08.19
 Commissioner
 District

FIRST INFORMATION REPORT

(Under Section 154 Cr. P.C.)

-14- Annexure P1
2248

Dist. Howrah PS. Belur Year 2019 FIR No. 148/19 Date 03/08/19

(i) Act. IPC Sections 341/323/427 (ii) Act. IPC Sections 511/506/34

(iii) Act. Sections (iv) Other Acts & Sections

(a) Occurrence of offence Day. Friday Date From 02/08/19 Date To -

Time Period Time From 10:00 hrs Time To -

(b) Information received at P. S. Date on 03/08/19 Time 17:15 hrs

(c) General Diary Reference : Entry No(s) 160 Time 17:15 hrs

4. Type of information : Written / Oral

5. Place of Occurrence : (a) Direction and Distance from P.S. North-East - 2 km from Beat No. -

(b) Address Road in front of residential add. of the complainant
situated at 52 NO. Ram Dechan Shree Street, PS- Belur, Howrah.

(c) In case outside limit of this Police Station, then the Name of PS. District

6. Complainant / Information

(a) Name Sangha Mitra Saxena

(b) Father's / Husband's Name Bibek Saxena

(c) Date : Year of Birth. (d) Nationality

(e) Passport No. Date of issue. Place of issue.

(f) Occupation

(g) Address 52 NO Ram Dechan Shree Street, PS- Belur, Dist- Howrah

7. Details of known / suspected / unknown accused with full particulars
(Attach separate sheet, if necessary) :

① Banta, ② Bhola, ③ Krishanu, ④ Rahu.
all of the locals of the complainant.

8. Reasons for delay in reporting by the Complainant / Information

9. Particulars of properties stolen / involved (Attach separate sheet, if necessary) :

10. Total value of properties stolen/involved.

11. Inquest Report / U.D. Case No. if any.

12. FIR Contents (Attach separate sheets, if required) : The original written complaint of the complainant which is treated as FIR is attached here with.

12. Action taken : Since the above report reveals commission of offence(s) as mentioned at item No. 2 registered the case and took up investigation / directed. SI S. Bhaush, PI to take up investigation / Refused investigation / transferred to P.S. SI S. Bhaush, PI on point of jurisdiction. FIR read over to the Complainant / Informant, admitted to be correctly recorded and a copy given to the Complainant / Informant free of cost.

14. Signature / Thumb impression of the Complainant / Informant. Sangha Mitra Saxena Signature of the Officer-in-Charge, Police Station 03/08/19

15. Date & Time of Despatch to the court : 3/08/2019 Name Sankar Ch. Majumdar Rank SI of Belur PS, Howrah

Annexure P1

To be paragraph 2

Forgoing Petition affirmed

by S. S. Saxena

in this 28th Day of August 2019

Commissioner of Affidavit
High Court Appellate Side,
Calcutta

DISTRICT: 24 Parganas South

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

WP. no. 17163 (W) of 2019

In the matter of:

An application under Article 226 of the
Constitution of India ;

-And-

In the matter of :

Sanghamitra Saxena

....Petitioner

-Vs-

The State of West Bengal and others

.....Opposite Parties

Affirmed on June, 2019

WRIT PETITION

Advocate on Record :

INDRAJEET DEY

ADVOCATE

14C/1, KAPALITOLA LANE,
KOLKATA 700012

43/2B, SUHASINI GANGULY SARAN
KOLKATA 700025

M- 9804377236

✓
Has no Aadhaar / Has Aadhaar at pages nos.

For Sign. with date:

() By: *[Signature]*

Advocate / Clerk